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U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X **Docket#**
UNITED STATES OF AMERICA, : 13-cr-00607-JFB
:
- versus - : U.S. Courthouse
: Central Islip, New York
:
PHILLIP A. KENNER, et al., : July 22, 2021
Defendants : 3:20 PM
-----X

TRANSCRIPT OF CRIMINAL CAUSE
FOR TELEPHONE STATUS CONFERENCE
BEFORE THE HONORABLE VISITING JUDGE JOSEPH F. BIANCO

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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1 THE CLERK: Calling 13-cr-607, United States of
2 America v. Phillip Kenner and Tommy Constantine.

3 Counsel, please state your appearances for the
4 record.

5 MS. O'CONNOR: Madeline O'Connor and Diane
6 Leonardo for the United States.

7 Good afternoon, your Honor.

8 THE COURT: Good afternoon.

9 MR. KOSTOLAMPROS: George Kostolampros and with
10 me are Doreen Martin, Xochitl Strohbehn and Kelly Weiner
11 of Venable representing Danske.

12 Good afternoon, your Honor.

13 THE COURT: Good afternoon.

14 MR. SKOVGAARD: Barry Skovgaard here on behalf
15 of the Diamante Hoomeowners.

16 MR. MULRY: Kevin Mulry from Farrell Fritz
17 representing Ken Jowdy and DCSL parties.

18 Good afternoon, your Honor.

19 THE COURT: Good afternoon.

20 MS. RAMACHANDRAN: Seetha Ramachandran on
21 behalf of Owen Nolan.

22 Good afternoon, your Honor.

23 THE COURT: Good afternoon.

24 MR. HILL: Good afternoon, Judge.

25 Chris Hill representing CSL Properties.

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1 THE COURT: Good afternoon. All right. I
2 think that's everybody.

3 So as you know, I scheduled this as a general
4 status conference to find out where things stood with
5 respect to any ongoing discussion. I also am prepared to
6 move forward with respect to the discoveries that's
7 outstanding which the Court has received letters from --
8 as directed from both the government and from Danske
9 Bank. Actually, the bank's letter came in first on June
10 14th, the government's response on June 29th and I did
11 receive a July 21st letter from Mr. Kostolampros updating
12 the Court which was helpful, and there is Ms.
13 Ramachandran's letter to strike certain third-party
14 claims which will be discussed as well.

15 But before I address those things which are on
16 my agenda, let me just see, I will just ask Mr.
17 Kostolampros, is there anything more you have to report
18 beyond what was in your July 21st letter with respect to
19 the discussion between the parties?

20 MR. KOSTOLAMPROS: No, your Honor, nothing else
21 on our end.

22 THE COURT: All right. Does the government
23 have anything else to report on that?

24 MS. O'CONNOR: Yes, your Honor. I understand
25 the government has had two meet and confers, the results

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1 which were addressed the letters you just mentioned but
2 subsequent to those filings, there had been follow-up
3 emails between Danske and the government, requests --
4 discovery requests that had not yet been resolved. The
5 fact is we've sent a follow-up email as recently as
6 yesterday afternoon.

7 So as it stands, there are a few remaining
8 discovery requests that are disputed or require
9 clarification. We suggest that because some of the
10 remaining issues might be resolved without court
11 involvement, other than addressing the remaining issues
12 now, that the government could respond to Danske's email
13 of yesterday to gain the clarification it needs and we
14 could file a letter with the Court to address the arrears
15 that (indiscernible) that and perhaps it would be the
16 best use of (indiscernible).

17 However, we are prepared to address these
18 (indiscernible) issues now (indiscernible).

19 THE COURT: All right. No, I mean obviously if
20 there's ongoing dialogue to resolve them, I think that's
21 better than the Court addressing them today but are you
22 talking about the government's requests, as well as the
23 bank's request for (indiscernible) equitable estoppel or
24 only the government's request?

25 MS. O'CONNOR: Only the government's.

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1 THE COURT: All right. Because there is this
2 ongoing dispute about discovery with respect to equitable
3 estoppel, right?

4 MS. O'CONNOR: True.

5 MR. KOSTOLAMPROS: Well, your Honor -- your
6 Honor, this is George Kostolampros again.

7 I think our discovery requests go beyond just
8 equitable estoppel. It goes to the basis of the
9 government's claims --

10 THE COURT: Right.

11 MR. KOSTOLAMPROS: -- that these transactions
12 weren't on time.

13 THE COURT: I know.

14 MR. KOSTOLAMPROS: I just want to clarify that.

15 THE COURT: Yes, I understand that. I didn't
16 classify that way but --

17 MR. KOSTOLAMPROS: Okay.

18 THE COURT: -- so what do you think about
19 holding off then on the outstanding disputes then for the
20 government's request, Mr. Kostolampros? Do you think it
21 might be helpful to narrow them further for the Court?

22 MR. KOSTOLAMPROS: I think that's helpful
23 actually, your Honor. We're fine with that.

24 THE COURT: Okay. All right. And then let me
25 just ask the government, the bank did make reference to

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1 discussions with Silver Peak. Does the government want
2 to update the Court? Are those discussions ongoing?
3 What's the status of those discussions?

4 MS. O'CONNOR: Yes, your Honor, this is
5 (indiscernible).

6 Silver Peak (indiscernible) another --

7 THE COURT: I'm having trouble hearing you, Ms.
8 O'Connor. I don't know if you're on speaker or --

9 MS. O'CONNOR: I'm sorry, your Honor, is this
10 better?

11 THE COURT: Yes.

12 MS. O'CONNOR: Yes. So the government is
13 engaging in ongoing discussions with Silver Peak and in
14 fact, another potential investor.

15 THE COURT: All right. Well, I encourage
16 obviously, as I said, those discussions to continue and
17 hopefully move along as quickly as possible under the
18 circumstances but again, I'm prepared to move forward on
19 what we can today.

20 So before I hear from all the other interested
21 parties, let me just resolve my -- state my views with
22 respect to the discovery that the bank is requesting. I
23 don't -- and this may be why, Mr. Kostolampros, I framed
24 it the way I did, I don't believe that the bank's request
25 with regard to understanding the government's grounds for

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1 its claim warrant any direction from the Court of
2 discovery by the government.

3 The government has made very clear that it's
4 theory, it's allegations as it relates to the bank's
5 conduct on the issue of being a bona fide approach to the
6 value, whether it's at arm's length transaction, it's
7 based upon the documents that they have reviewed or what
8 they view as the lack of documentation and I think they
9 spelled out their position pretty clearly through their
10 papers, as well as the declarations that they have filed
11 as to why they have taken this position.

12 So I don't think there's any discovery that
13 would be warranted on that -- under those types of
14 circumstances. I would just say to the government,
15 obviously, if the government did have in its possession
16 other documents from third parties that it is going to
17 try to utilize to demonstrate their position with respect
18 to this, then those should be produced but based upon the
19 government's response in the papers, it's my
20 understanding the government is not relying on any other
21 documents -- it doesn't intend on relying on any other
22 documents outside of the record that we have before us
23 right now. Is that accurate, Ms. O'Connor?

24 MS. O'CONNOR: That's accurate as of now, your
25 Honor. Yes.

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1 THE COURT: All right. Well, if that should
2 ever change, obviously the government would need to
3 produce any document that it is going to try to utilize
4 to, you know, further support the position that it's
5 taking here. All right, Mr. Kostolampros, is that -- the
6 Court's ruling on that clear?

7 MR. KOSTOLAMPROS: Yeah, that is, your Honor
8 and that's -- you know, that's fine with us obviously, as
9 long as the government's limited to, you know, those
10 documents unless, you know, if it gets any additional
11 documents that it plans on using, then we would expect
12 discovery as you suggest (indiscernible).

13 One other thing though is the appraisal that --

14 THE COURT: Yeah, I'm going to address that.

15 MR. KOSTOLAMPROS: -- the government has --
16 what's that?

17 THE COURT: I'm going to address that.

18 MR. KOSTOLAMPROS: Okay. Thank you.

19 THE COURT: I'll give the government a chance
20 to put something in writing on this but it is my view
21 that I don't see any reason why the bank should not get
22 that appraisal --

23 MR. KOSTOLAMPROS: Right.

24 THE COURT: -- certainly at this point in time
25 given where this litigation is. The bank has articulated

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1 the potential relevance, which is depending on what that
2 appraisal may be, that it may show that whatever the
3 government is saying the bank engaged into deplete the
4 asset, did not in fact happen and I don't see any
5 countervailing reason why the bank -- any harm to the
6 government in disclosing at this juncture.

7 I think -- when was that appraisal done? I'm
8 sorry, two years ago, right? Ms. O'Connor, do you know
9 when that appraisal was done?

10 MS. O'CONNOR: I believe it was in the end of
11 2019 or early '20?

12 MR. KOSTOLAMPROS: January of 2020.

13 THE COURT: All right. So it's a year-and-a-
14 half old. It's obviously outdated. It was before the
15 pandemic. So it's basically an appraisal that was frozen
16 in time as of that date. So I don't see -- I can't see
17 any reason -- any harm as I said, to the government, in
18 disclosing that and then the bank may have some ability
19 to try to utilize that in responding to the government's
20 position regarding the depletion of the asset as a result
21 of the bank's conduct.

22 But if the government, you know, wants to
23 explain to me what I am missing, I'm happy to give you a
24 chance to put in a letter in the next couple of days, all
25 right?

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1 MS. O'CONNOR: Yes, your Honor.

2 THE COURT: All right. So the government
3 should either produce that in a week or send me a letter
4 within a week or today explaining why they think it
5 should not be produced but I think that's going to be an
6 uphill battle.

7 The only other thing I will say with respect to
8 the equitable estoppel because I did -- even though I am
9 denying the bank's request for the documents as it
10 relates to the basis for the government's claim, based
11 upon the discussion that we had now, this was not part of
12 the bank's enumerated request for documents but I did go
13 back in the briefing with the summary judgment motion
14 with respect to the equitable estoppel issue, the only
15 potential discovery and again, I am not encouraging the
16 bank to make this request but I am just saying, I didn't
17 want it to appear that I was foreclosing this, there was
18 this whole issue about what was said at this November
19 18th, 2015 meeting by the government and whether or not
20 some representation was made that the bank needed to
21 continue funding the resort the variations on what was
22 said or how it was said or whether it was said at all but
23 that to me would be the only potential issue, I think for
24 the government -- for the bank to be able to utilize
25 something like that, it would have to be along the lines

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1 of what I was just suggesting, whether the government
2 makes some representation telling the bank that you need
3 to continue funding this resort to try to make some type
4 of equitable estoppel argument.

5 So there were declarations, I think Mr. Daniel
6 (ph.) put in a declaration, I think agent -- one of the
7 agents put in a declaration in response that had, you
8 know, a different variation of what was said at the
9 meeting. So to me that's the only factual dispute, I
10 guess, that could potentially be the subject of
11 discovery.

12 I'm not encouraging that and I would say to the
13 bank, if the bank made any requests on that, the
14 government I think could make a request back to the bank
15 for, I don't know, notes related to the meeting or
16 whatever else might fall into the same category. If I
17 was going to give that to the bank, it would have to be a
18 reciprocal obligation for the bank then to produce to the
19 government the same category of discovery but anyway, I
20 just wanted to put that aside.

21 I don't know, Mr. Kostolampros, if you want to
22 speak to that issue. It wasn't really framed in your
23 request but it did come across my mind.

24 MR. KOSTOLAMPROS: It wasn't, your Honor but I
25 appreciate that and that's something that we can discuss

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1 with the government. It does come up because the
2 government has referenced a notice of default of a letter
3 in 2015 and that default didn't relate to any failure to
4 pay any principal or interest, it related to a covenant
5 breach but you know, that was raised recently by the
6 government and, you know, it -- one of the issues that we
7 had is according - you know, based on our recollection of
8 that meeting, the government made clear that Danske could
9 -- if Danske foreclosed on the property, the government
10 would view that as violative of the protective order.

11 So it's something that we would -- we
12 definitely want to consider but I think that's probably
13 best for us to have a meet and confer with the government
14 and obviously if we were going to insist on that kind of
15 production from them, they would probably get that same
16 production from us, to the extent we have any notes of
17 those meetings.

18 THE COURT: All right. Yeah, and I don't --
19 I'm not sure what the government's position on that
20 particular point -- I don't remember whether they
21 disputed the idea that you could not foreclose without
22 being in violation of the protective order but in any
23 event, I think that was a different issue.

24 But anyway, discuss with the government if you
25 want to come back to the Court with some type of a

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1 request in that area, obviously I'll consider it, all
2 right?

3 MR. KOSTOLAMPROS: Okay.

4 THE COURT: All right.

5 MR. KOSTOLAMPROS: Okay. Thank you, your
6 Honor.

7 THE COURT: All right. And then so I think
8 that resolves the bank's -- at least currently, the
9 bank's request for discovery. I guess this sort of --
10 I'll hear from everybody else and then we could discuss
11 dates to get back to me on the remaining issues with
12 respect to the government's request.

13 The only thing I would add on this issue of --
14 I think I had asked the bank at the last conference to
15 give me, as a result of this back and forth, that I
16 expect it to happen and I'm pleased to see has made
17 progress on the discovery, when the discovery might be
18 complete. I saw the bank is going to produce some
19 documents (indiscernible) have agreed to produce by
20 August 9th and then there was a reference to Mr. Delvin's
21 (ph.) deposition taking place in late September.

22 I did say the government is entitled to taking
23 Jowdy's deposition (indiscernible) reference to that
24 (indiscernible) deal with the bank directly but I do want
25 to set a date by which this is all going to be complete

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1 and then we could have supplemental briefing based upon
2 any additional discovery, starting with (indiscernible)
3 forward.

4 So Mr. Kostolampros, has there been some
5 discussion of that?

6 MR. KOSTOLAMPROS: Your Honor, we have -- what
7 you've seen in the letter is what we've discussed with
8 the government. We have spoken with Mr. Delvin. It
9 looks like he's probably -- he's going to be available
10 the first week of October. I haven't yet spoken to the
11 government about it. We just spoke with Mr. Delvin this
12 morning but we have not spoken with Mr. Jowdy, so I don't
13 know maybe perhaps his counsel could speak to when he
14 could be available but, you know, for us, we intend to
15 produce the majority of the documents on August 2nd. We
16 just left a little room for another week because there
17 are basically 11,000 pages of documents and a lot of
18 these documents are invoices, so it just takes a little
19 while to get through that.

20 So that's why we believe we will be able to
21 produce all of the documents by August 9th. So that's
22 our expectation of this.

23 THE COURT: Ms. O'Connor, what -- does the
24 government's view on when all of this could be completed?

25 MS. O'CONNOR: Well, your Honor, we think it

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1 depends on whether Danske is able to meet the August 9th
2 deadline and whether we resolve (indiscernible) as to any
3 discovery issues but I hope to be done by that
4 (indiscernible).

5 THE COURT: All right. Well, I assume the rest
6 of the discovery issues are either going to be resolved
7 or they're going to be decided by me in the next, you
8 know, couple of weeks by mid-August and then have you had
9 any discussions with Mr. Jowdy's counsel about his
10 deposition or you haven't had that discussion?

11 MS. O'CONNOR: We haven't had those discussions
12 as of yet.

13 THE COURT: All right.

14 MR. MULRY: Your Honor, this is Kevin Mulry for
15 Mr. Jowdy.

16 We're certainly willing to work with the
17 government and the parties to schedule a deposition. I
18 think our concern will be that your Honor has previously
19 indicated that the scope of the deposition would be
20 limited with respect to topics but we're willing to
21 discuss that with the government and the other parties,
22 that as well as schedules.

23 THE COURT: Yeah, why don't you do that and
24 hopefully report back to me maybe by the end of next
25 week, as to the timing of that deposition, if there are

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1 any disputes about the scope, I'm happy to address them.
2 Obviously, (indiscernible) what I said earlier, is to
3 help the parties move discussions. This should be about
4 his management of the resort and interactions with the
5 bank as it relates to the managing of the resort. This
6 would not be an opportunity to go back through his whole
7 relationship, you know, with Mr. Kenner. This is not
8 where this case is at at this point. So hopefully that
9 will help both sides figure out, you know, where the line
10 might be.

11 All right, so based upon what I am hearing, I
12 am hoping that -- I would say by -- the Delvin deposition
13 is going to take place in early October. I don't see any
14 reason why Mr. Jowdy's deposition can't be completed by
15 around the same time and then we would have the
16 supplemental briefing take place starting shortly
17 thereafter.

18 So again, I would -- I don't want to set
19 arbitrary dates and unrealistic dates but we are at a
20 point where the parties should be proposing a date by
21 which all discovery is to be complete and then you can
22 propose to me sort of an expedited briefing schedule on
23 supplemental submissions. All right?

24 MS. O'CONNOR: Yes, your Honor.

25 THE COURT: All right.

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1 MR. KOSTOLAMPROS: Yes.

2 THE COURT: So let me -- before I hear from
3 everybody else, Ms. Ramachandran had put in this letter
4 regarding a motion to strike certain submissions as both
5 late and incomplete. So I do want to hear what the
6 government's position is with respect to that.

7 I don't know if, Ms. O'Connor, if you want to
8 respond briefly now or if you just want to put in a
9 letter on that? How do you want to handle that?

10 MS. O'CONNOR: Yes, your Honor, given that it
11 was just filed yesterday, we would like an opportunity
12 (indiscernible).

13 THE COURT: All right. So let's set a date for
14 that. Ms. Ramachandran, since I'm talking about your
15 letter, do you want to add anything on that or any other
16 issues we've discussed, go ahead.

17 MS. RAMACHANDRAN: One thing I forgot to note
18 in my letter is that Mr. Berard (ph.), Mr. Pecca (ph.)
19 and Mr. Nash (ph.) are members of DSL. So I now CSL has
20 made a valid claim here.

21 THE COURT: Well, that's a good point. Are
22 these subsumed within that claim or is it something
23 different?

24 MS. RAMACHANDRAN: I'm not sure actually. I
25 mean it's -- I think they're defective to this petition

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1 but certainly I think the claim of DSL which was timely
2 filed is, you know, valid.

3 THE COURT: No, their interests, I think is
4 through CSL, right? There's not some other independent
5 interest they're claiming, right?

6 MS. O'CONNOR: That's how I understood them,
7 yes --

8 THE COURT: All right.

9 MS. O'CONNOR: -- is through CSL.

10 THE COURT: All right. Well, maybe it's moot
11 then. Mr. O'Connor, I don't know, do you want to address
12 that in the letter as well?

13 MR. HILL: Judge, this is Chris Hill for CSL
14 Properties. We've been -- we have a number of the
15 members who have independent claims that they've
16 submitted, so we have CSL, we've submitted our claim,
17 that's our true agenda but we are aware of and have at
18 least given to -- limited guidance to some of the other
19 members who have also submitted independent claims and to
20 my understanding, those claims are independent. They
21 would not necessarily flow through CSL.

22 THE COURT: They're claiming they had some
23 other interest independent of the interest they had
24 through CSL; is that what you're saying?

25 MR. HILL: That is my understanding, your

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1 Honor.

2 THE COURT: All right. Okay. Thank you,
3 that's helpful. But anyway, Ms. O'Connor obviously, the
4 government needs to look at this issue as well. All
5 right.

6 MS. O'CONNOR: Your --

7 THE COURT: So before we -- yes?

8 MS. O'CONNOR: I'm sorry, your Honor.

9 THE COURT: It's okay.

10 MS. O'CONNOR: We were going to comment that
11 yes, there are certain petitions that are -- as stated,
12 interests that are covered by the CSL position and there
13 are petitions separate and apart from the interests
14 asserted by DSL but it would -- we believe the proper
15 avenue to address striking of the motions through formal
16 motions that are noted, so the parties at issue should be
17 noted and served with the motion to have an opportunity
18 to respond.

19 THE COURT: They're all pro se. Are any of
20 them represented by counsel or they're all pro se
21 filings?

22 MS. O'CONNOR: I believe they're all pro se,
23 your Honor.

24 THE COURT: Ms. Ramachandran, I think -- did
25 you serve -- other than filing it on ECF, you didn't

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1 serve that letter on anybody, right?

2 MS. RAMACHANDRAN: No, I just filed it on ECF.
3 I can go ahead and do that if I have contact information
4 for those petitioners (indiscernible).

5 THE COURT: Yeah, I don't know that they're
6 following, like, ECF, that they're going to see anything
7 that's filed there. So again, I would talk to the
8 government. I would send them a copy of your -- I'll
9 treat that as a letter motion and we'll issue an order
10 setting a date for them to respond (indiscernible) and
11 then your letter then and the Court's order. How's that?

12 MS. O'CONNOR: That's fine, your Honor. I'll
13 do that.

14 THE COURT: All right. So you can wait for our
15 order before you serve it.

16 MS. O'CONNOR: Okay.

17 THE COURT: All right. Are there any other
18 counsel have anything they want to add before I set dates
19 for the things that we've discussed?

20 MR. SKOVGAARD: Yes. Barry Skovgaard on behalf
21 of the home owners, your Honor.

22 THE COURT: Yes.

23 MR. SKOVGAARD: It's a little surprising to us
24 at this juncture that we're still in the discovery
25 process here but to the extent that the government is

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1 going to consider trying to force a forfeiture of the
2 property, we have great concerns over that and the timing
3 that will be involved in that and the ability of the
4 government to actually effectuate that in Mexico.

5 The government has not explained to you or to
6 us how they think they can effectuate a forfeiture of the
7 sale of the property in Mexico and should the government
8 wish to continue down that road, we would ask you under
9 the Federal Rules of Civil Procedure and the Federal
10 Rules of Criminal Procedure to schedule a hearing and to
11 receive evidence from us and from the government on the
12 efficacy of effecting a forfeiture of the sale of the
13 property in a foreign country.

14 We have counsel in Mexico. We do not believe
15 that the government can do that and moreover, even if the
16 government were able to do that, we are told that the
17 process would take several, if not many years.

18 So we would like your Honor to schedule a
19 hearing. We now have discovery going on through October.
20 Schedule a hearing, take evidence on the issue of whether
21 or not the government can, in fact, effectuate a
22 forfeiture of the sale of the property in Mexico.

23 THE COURT: Well, I know you're new to the
24 discussions. I think obviously, there's been discussions
25 for many months and there's been a back and forth on

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1 that. Most recently, the government indicated that they
2 have had other instances where they've been able to
3 forfeit --

4 MR. SKOVGAARD: They had one instance where
5 they've done that but it was with the consent of the
6 other parties. They do not have the consent of Danske
7 here and we would like a hearing to discuss whether or
8 not that is proper and to take evidence on that if that's
9 appropriate.

10 THE COURT: All right. Well, the proper way,
11 if you want to make any type of application like that,
12 you would have to do it in a formal motion.

13 MR. SKOVGAARD: Okay.

14 THE COURT: You would have to obviously explain
15 why you would have legal standing to make that type of a
16 request for a hearing at this juncture where the Court
17 has, you know, made some determinations with regard to
18 the legal forfeiture of the property. I think you're
19 making a practical argument, not a legal argument but --

20 MR. SKOVGAARD: Okay.

21 THE COURT: -- you know, I am willing to look
22 at it but you have to do it, you know, formally and the
23 government will respond, okay?

24 MR. SKOVGAARD: Thank you, your Honor.

25 THE COURT: All right. Anybody else? Okay.

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1 So Ms. O'Connor and Mr. Kostolampros, what's --
2 let me ask the government first, what do you think is a
3 reasonable date to get back to me on any remaining
4 discovery issues that the Court needs to resolve?

5 MS. O'CONNOR: Your Honor, how is August 9th
6 for the Court for the outstanding discovery issues?

7 THE COURT: Mr. Kostolampros does that sound
8 okay to you?

9 MR. KOSTOLAMPROS: That's fine with us, your
10 Honor.

11 THE COURT: All right. So I'll make the
12 government put in the letter on August 9th that just
13 tells me what's left. I mean, obviously you could tell
14 me how the other ones have been resolved and let me know
15 what other additional things the bank may have agreed to
16 produce and then whatever else is unresolved, the chart
17 was very helpful to me, so in a similar format if the
18 government could just update that chart and just tell me
19 whatever the categories there's still a dispute about.
20 Okay?

21 MS. O'CONNOR: Yes, your Honor.

22 THE COURT: And then we'll have a conference
23 call to address that.

24 And then the government, as I said, within a
25 week from today will let me know with regard to the

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1 appraisal and Ms. Ramachandran's motion, I will issue an
2 order that sets a date for them to respond and so let me
3 just say -- I want the government to state its position.
4 Ms. O'Connor, is August 9th good to get that letter in?

5 MS. O'CONNOR: Yes, at that time we can address
6 our position.

7 THE COURT: All right. So August 9th, the
8 government is going to put in a letter as to whether or
9 not they believe there's some defect with respect to
10 those petitions. Actually, do you know what I am going
11 to do? I think I am going to wait until the government
12 states its position and then I will issue the order and
13 so that the claimants can see both the motion and the
14 government's position to respond to both, all right?

15 MS. O'CONNOR: Your Honor, we previously stated
16 to the Court that we were not going to take a position
17 with regard to the remaining motion -- decisions and we
18 anticipate that would be our position when we file our
19 letter on August 9th. We don't expect that to change.

20 THE COURT: All right. So the government has
21 no -- you don't know whether I should strike those
22 petitions as late, the government has no interest in
23 that?

24 MS. O'CONNOR: Well, your Honor, I think the
25 (indiscernible) government's view is that they will not

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1 (indiscernible) one way or another.

2 THE COURT: All right. Okay. So then I will
3 issue the order, Ms. Ramachandran and I'll set a date for
4 you to reply to anything they submit, okay?

5 Anything else? All right. Thank you,
6 everybody. Have a good day.

7 MR. KOSTOLAMPROS: Thank you, your Honor.

8 (Matter Concluded)

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C E R T I F I C A T E

I, LINDA FERRARA, hereby certify that the foregoing transcript of the said proceedings is a true and accurate transcript from the electronic sound-recording of the proceedings reduced to typewriting in the above-entitled matter.

I FURTHER CERTIFY that I am not a relative or employee or attorney or counsel of any of the parties, nor a relative or employee of such attorney or counsel, or financially interested directly or indirectly in this action.

IN WITNESS WHEREOF, I hereunto set my hand this 26th day of July 2021.


Linda Ferrara

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